



NORFOLK

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October 13, 2015

To the Honorable Council
City of Norfolk, Virginia

R-1

Re: Ordinance to Amend Norfolk City Code Section 34.1-60

Dear Ladies and Gentlemen:

Currently the City Code only allows taxicabs to charge and collect the taximeter rate. Increasingly, there is a demand to use taxicabs for medical transport requiring more effort than the typical fare. Virginia Medicaid already also has regulations for increasing fares for medical transport. This ordinance arises from this particular demand. This proposed ordinance would allow the fare limits to be exceeded but not without a written contract by the payor agreeing to the increase. The attached ordinance amends Section 34.1-60 of the Norfolk City Code to authorize the charging of fare schedules other than the taximeter rate when agreed upon by a written contract between the taxicab companies and an entity contracting for nonemergency medical transport services greater than a nonmedical transport. A fare increase under this ordinance does not appear to violate the ADA or other antidiscrimination laws. Attached is a memorandum from Ms. Nexsen addressing ADA concerns.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "B. Pishko", written over a horizontal line.

Bernard A. Pishko
City Attorney

Recommendation: Adopt Ordinance

Form and Correctness Approved: *BAP*

By *Maya G. A.*
Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved: *BAP*

By *W. E.*
DEPT. *LZW*

ORDINANCE No.

AN ORDINANCE TO AMEND AND REORDAIN THE CODE OF THE CITY OF NORFOLK, 1979, TO ADD A NEW SUBSECTION (F) TO CITY CODE SECTION 34.1-60 TO AUTHORIZE TAXICABS TO CONTRACT FOR ADDITIONAL CHARGES FOR ADDITIONAL SERVICES.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Code of the City of Norfolk, 1979, is hereby amended and reordained to add a new subsection (f) to City Code Section 34.1-60 to read as follows:

(f) Notwithstanding anything in this section to the contrary, charges in addition to the amounts set forth in this section may be charged and collected for services by taxicabs pursuant to a written contract with a third-party payor for the transportation of passengers provided (1) the contract requires services in addition to transportation services, and (2) the difference between the charges provided for in the contract and the charges set forth in this section bears a reasonable relationship to the value of the additional services provided by the taxicabs as required under the contract.

For purposes of this subsection, "third-party payor" means an insurance company, a health care provider, an educational institution, a non-profit organization or a federal, state, or local governmental entity and their contractors and subcontractors.

Section 2:- That this ordinance shall be in effect from and after its adoption.

September 25, 2015

Bernard – Reed Mayo, who represents Black & White Cabs, and I have prepared the following in regard to the proposed amendment to City Code § 34-1-60(f).

I. Question Presented

Whether a proposed ordinance amendment that permits a taxicab company and/or driver to collect charges greater than those currently authorized under Chapter 34.1 violates the Americans with Disabilities Act (or any other anti-discrimination law designed to protect disabled persons) where (a) the charges must be set forth in an annual written contract between the taxicab owner/operator and a third-party payor, (b) the contract contains service requirements beyond those set forth in Chapter 34.1, and (c) the difference between the charges provided for in the contract and the charges currently authorized under Chapter 34.1 bears a reasonable relationship to the value of the additional service requirements under the contract?

II. Short Answer

So long as the contract imposes service requirements beyond those set forth in Chapter 34.1, and the same charges are imposed equally on both disabled and non-disabled individuals for whom the services are provided, such charges would not violate the Americans with Disabilities Act or similar anti-discrimination law.

III. Background

The City's ordinance governing taxicabs sets forth a number of requirements for taxi owners such as maintaining liability insurance limits of at least \$125,000/\$300,000 (§34.1-8), creating and maintaining manifests (§34.1-14), and undergoing vehicle inspections (§34.1-20). The cost of compliance with these requirements is incorporated into the fares operators may charge for such traditional curb-to-curb transportation. Norfolk City Code § 34.1-60(a) sets forth a cap on the amount of such charges, specifies that they "shall be determined by taximeter," and are calculated on the distance traveled. Other subsections set charges for "wait time" and for the transportation and handling of luggage. See Section 34.1-60(c), (d).

Those responsible for arranging the transportation of individuals for non-emergency medical purposes are more and more turning to taxis to lower their overall transportation costs. This is particularly true of government funded transportation, including transportation of Medicaid recipients. Indeed, the Transportation Manual governing Virginia's Medicaid Program (attached) in Chapter IV specifically authorizes the use of taxis to provide such service. Ch. IV at p. 3. Because eligibility for Medicaid is based on income rather than physical condition, passengers transported under Medicaid include non-disabled passengers as well as disabled passengers. It is just as likely that a Medicaid client using a taxicab for transportation to a medical appointment will be going for a regular doctor's appointment or medication review as that such person is a

disabled person under the ADA definition. The non-emergency medical transportation service provided to both individuals by a taxicab and paid for by Medicaid would be the same.

The Virginia Medicaid program imposes financial and passenger service requirements beyond those set out in Chapter 34.1. For example, under Virginia's Medicaid Program, non-emergency medical transportation providers must:

- Provide drivers with training in assisting passengers with disabilities (such as Passenger Assistance, Safety, and Sensitivity), defensive driving, and applicable HIPAA requirements (Ch. IV at p. 8).
- Maintain minimum liability insurance limits of \$500,000 (Ch. IV at p. 11).
- Protect passenger confidentiality and comply with HIPAA (Ch. IV at p. 3).
- Submit additional information and a variety of reports (Ch. IV at p. 2).

To cover the costs associated with satisfying such additional service requirements, taxicab owners seek to negotiate compensation higher than that authorized in Section 34.1-60(a). The proposed ordinance amendment would authorize additional charges for these additional services, as long as the difference between the negotiated contractual rate and the meter rate is reasonably related to the value of the additional service requirements.

Inquiry has been made regarding whether permitting taxi operators to negotiate and charge higher rates for these services would violate the Americans with Disabilities Act or similar anti-discrimination laws designed to protect the disabled. The rest of this Memorandum addresses this concern.

IV. Analysis

The Americans with Disabilities Act ("ADA") and similar anti-discrimination laws protect the civil rights of people with disabilities and ensure their access to employment, public accommodations, telecommunications, and transportation. See 42 U.S.C. §§ 12101, et seq.; see also Va. Code 2.2-3900, et seq. (Virginia Human Rights Act). Disability is defined under the ADA as a physical or mental impairment which substantially limits one or more major life activities. Title 49 of the Code of Federal Regulations specifically addresses the obligations of taxi service providers under the ADA. It states:

Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.

49 C.F.R. § 37.29(c); see also 49 C.F.R. § 37.5 (general provision proscribing discrimination in the provision of transportation services). The Interpretive Guidance that accompanies the general nondiscrimination provision identifies those taxi charges that are impermissible:

The prohibition on special charges applies to charges for service to individuals with disabilities that are higher than charges for the same or comparable services to other persons. . . .

49 C.F.R § 37, App. D.

As long as a taxi operator charges the same amount for the same service to both disabled and non-disabled passengers, there is no violation of the ADA or similar antidiscrimination laws.

The proposed ordinance amendment makes no distinction between disabled and non-disabled passengers. It would permit taxi operators to charge more than the rates set forth in Section 34.1-60(a) provided (a) the charges are set forth in an annual written contract between the taxicab owner and a third-party payor, (b) the contract contains service requirements beyond those set forth in Chapter 34.1, and (c) the difference between the charges provided for in the contract and the charges currently authorized under Chapter 34.1 bears a reasonable relationship to the value of the additional service requirements under the contract.

Nothing in the proposed amendment authorizes taxi operators to violate the ADA. Specifically, the amendment does not allow taxi operators to charge disabled passengers more than non-disabled passengers for the same services, and, on a practical level, the non-disabled and the disabled passengers all have these taxicab charges paid by Medicaid so the passengers are not even paying the charges. If a taxi operator is contractually obligated to comply with additional service requirements applicable to both disabled and non-disabled passengers, then it cannot charge the costs of compliance to the former but not the latter. If a taxi operator does so, it will be in violation of the regulations enacted under the ADA and would also be violating the contract with the third-party payor.

V. Conclusion

The authority granted to taxi operators by the proposed ordinance amendment to charge more than existing rates to address the additional contractual service requirements does not discriminate against disabled individuals or otherwise violate the ADA or any similar anti-discrimination law as the amendment does not permit taxi operators to charge disabled passengers more than non-disabled passengers for the same non-emergency medical transportation services.



MLGN

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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CHAPTER IV

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CHAPTER IV COVERED SERVICES AND LIMITATIONS

GENERAL INFORMATION

Transportation services are provided to Virginia Medicaid recipients to ensure necessary access to and from providers of all medical services covered by the *State Plan for Medical Assistance*. Both emergency and non-emergency services are covered, with certain limitations.

This chapter describes the details of the transportation coverage available, the limitations, the method for requesting non-emergency transportation through a broker, and the payment rates available for emergency ambulance service.

COVERED TRANSPORTATION SERVICES

In the Virginia Medicaid Program, covered transportation services are categorized into two major categories: emergency ambulance and non-emergency transportation.

Emergency Ambulance Services

Emergency ambulance transportation is a covered service for Medicaid recipients with emergency conditions such as heart attacks and other life-threatening injuries. Emergency ambulance transportation coverage is not available for Medicaid recipients with conditions such as minor abrasions, lacerations, bruises, fever, normal labor pains, headaches, intoxication, and other similar non-life-threatening conditions. Ambulance providers seeking payment for emergency transportation will have Medicaid payment denied if an emergency condition is not documented.

Non-Emergency Transportation Services

Non-emergency transportation is provided to eligible Medicaid recipients through a broker, who must pre-authorize the trip and assign it to a transportation provider who transports the recipient to or from the Medicaid-covered service (see Chapter I). The fee-for-service broker is responsible for all non-emergency transportation services provided to Medicaid and Virginia Title XXI program recipients in the fee-for-service program. The broker is not responsible for recipients enrolled in a capitated managed care organization. Medicaid recipients enrolled in a capitated managed care organization receive their transportation services through their managed care organization. The only exception to this is for those managed care recipients who are also enrolled in the AIDS, IFDDS, MR, EDCD, Day Support, or Alzheimers federal waiver programs for home and community-based Medicaid coverage. While these individuals receive their acute and primary medical coverage from the MCO, they receive their long term care needs under the fee-for-service program.

Transportation to acute and primary care services shall be paid by the MCO.

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Transportation to waiver related services shall be the responsibility of and payable by FFS Medicaid via the FFS contracted transportation vendor.

Virginia Title XXI program recipients enrolled in a DMAS-contracted managed care organization do not receive non-emergency transportation services. All Medicaid recipients, including fee-for-service, must contact their broker in advance to have their trip pre-authorized. All non-emergency transportation providers must have a contract with the broker in order to be assigned the trip and receive Medicaid payment.

The broker performs the following functions:

- Inform and educate recipients and facility providers about the non-emergency transportation program and process.
- Verify recipient eligibility for fee-for-service Medicaid or the Virginia Title XXI program.
- Verify the purpose of the trip is to receive a service covered by fee-for-service Medicaid or the Virginia Title XXI program.
- Determine the appropriate mode of transport and delivery (e.g. curb-to-curb or door-to-door delivery).
- Authorize transportation services on a per-trip or recurring basis.
- Schedule and assign trips on a per-trip or recurring basis.
- Operate a toll-free call center for trip requests.
- Recruit and maintain an adequate transportation provider network.
- Assure compliance with driver and vehicle requirements.
- Provide reimbursement for transportation services.
- Develop and implement a monitoring system and quality assurance plan.
- Develop and implement a system that tracks complaints and their resolutions.
- Provide administrative oversight.
- Submit management reports to Department of Medical Assistance Services (DMAS).

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- Protect recipient confidentiality.
- Maintain adequate staff and facilities.

The broker(s) contracts with a number of transportation providers in order to provide the recipient with the most appropriate mode of transportation for each trip, including:

- Non-emergency ambulance
- Stretcher van
- Wheelchair van
- Common carrier bus services
- Commercial taxicab services
- Public transit services
- Mileage reimbursement - The broker is encouraged to use mileage reimbursement to provide the most cost-efficient transportation service to the recipient if such transportation is appropriate to meet the needs of the recipient. The broker must have procedures in place to verify and document that vehicles and drivers used in mileage reimbursement comply with appropriate state operating requirements, driver's licensure, vehicle registration, and insurance coverage.

Guidelines to Determine Transportation Necessity

Brokers must use the following guidelines to determine the need for transportation service:

1. Mobility: Transportation is provided and covered if the recipient does not own an operable automobile or cannot operate it safely. Transportation is covered if the recipient has no other transportation available from a spouse or, in the case of minors, from a custodial parent. The driver must have a valid operator's license and the vehicle must be properly registered and inspected. The vehicle must be in operable condition and available for use at the time of the appointment. Exceptions to "no other transportation available" shall be made for recipients who are going to dialysis treatment, chemotherapy, or radiation treatment; who are receiving foster care; who are enrolled in a Medicaid home- or community-based waiver; and when the length or frequency of the trip(s) would impose a financial burden on the recipient or the recipient's family.
2. Eligible Purpose: Transportation is provided and covered so services that are covered by Medicaid can be received (see Chapter I). If the covered service requires pre-authorization by DMAS or its agent, the recipient must have the required pre-authorization before requesting transportation for the service and any follow-up visits. However, transportation for a service consultation or evaluation

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does not require pre-authorization.

3. Transportation is provided and covered for the nearest available source of care capable of providing the patient's medical needs. For transportation purposes, the nearest provider of care is defined as:

- The nearest enrolled service provider, who provides the Medicaid-covered services needed by the recipient, will accept the Medicaid recipient as a patient, and can provide the service when it is needed.

OR

- The nearest enrolled service provider of specialized care required to tend to the recipient's specific medical needs. The broker may require written verification from the recipient's physician or psychologist attesting to the need for travel outside the area for specialized services.

OR

- The service provider has a client/patient relationship of at least one year with the recipient. Transportation to the medical provider's office is covered when it is within a reasonable distance from the recipient's home.

OR

- The nearest enrolled service provider who has agreed to serve as a primary care physician for a recipient enrolled in Client Medical Management.

4. Departure and return transportation may be provided between hospitals for the purpose of specialized procedures not available at the original hospital. However, Medicaid payment is limited to the nearest facility offering the specialized care. Medicare may also cover this transportation when an ambulance is necessary.

Guidelines for Determining Curb-to-Curb, Door-to-Door, or Hand-to-Hand Delivery

Curb-to-curb service is provided to Medicaid recipients who need little (if any) assistance from the vehicle to the door of the pick-up point or destination. The assistance provided by the driver includes opening and closing the vehicle doors, helping the passenger enter or exit the vehicle, folding and storing the recipient's wheelchair or other mobility device as necessary, and securing the wheelchair or other wheeled mobility device in the vehicle. It does not include lifting any recipient. Drivers are to remain in or nearby their vehicles and are not to enter any buildings.

Door-to-door service is provided to Medicaid recipients who need assistance to safely move from the door of the vehicle to the door of the pick-up point or destination. For this service, the driver exits the vehicle and assists the passenger from the door of the pick-up point (e.g. residence) to the door of the vehicle and assists the passenger in entering the vehicle. The driver is responsible for assisting the recipient throughout the trip. Drivers, except for ambulance personnel, are not allowed to enter a residence. In order to receive door-to-door service, the recipient

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must submit a medical certification statement from their physician. The document must certify that the recipient has a physical, sensory, mental, developmental, or cognitive disability that requires door-to-door assistance be provided for the safe transport of the recipient. Some examples of disabilities that may require door-to-door service are:

- Blindness
- Deafness
- Mental retardation
- Mental illness
- Dementia
- Physical disability of a degree that personal assistance is necessary

Hand-to-Hand service means transporting the recipient from a person at the pick-up point into the hands of a facility staff member, family member, or other responsible party at the destination. Some recipients with dementia or developmental disabilities, for example, may need to be transported hand-to-hand. In order to receive hand-to-hand service, the recipient must provide a medical certification statement from their physician.

NON-COVERED TRANSPORTATION SERVICES

Virginia Medicaid does not cover the following transportation services:

- Transportation of recipients is not covered from nursing facilities to a physician's office or a hospital outpatient department when the needed medical care can be performed in the nursing facility. If a patient can be treated by a general practitioner, the patient must not be transported out of the facility. Patients must not be transported to emergency rooms from nursing facilities for routine medical services covered under nursing facility care.
- Transportation of recipients is not covered from nursing facilities to hospital outpatient departments or to clinics to obtain routine physical therapy. These services must be provided through other arrangements by the nursing facility.
- Lateral transfers are not covered, except as follows:
 - When a person becomes eligible for Medicaid while in a non-enrolled hospital or nursing facility, transportation is covered to the nearest enrolled provider with an available bed.
 - When a hospital or nursing facility closes or ceases to be an enrolled provider, transportation is covered to the nearest enrolled provider with an available bed.
 - Transportation to another hospital is covered when more specialized care is required and cannot be obtained at the original hospital. However, if the patient is admitted to the second hospital, transportation back to the

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original hospital is not covered.

- Transportation is covered from one nursing facility to another when a change in the level of care is required.
- Transportation to a mental institution is not covered when the admission is court-ordered.
- Transportation for routine physicals and immunizations is not covered except to receive Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services.
- Transportation is not covered for long-term speech therapy.
- Transportation is not covered for picking up prescriptions and refills at a pharmacy when the drugs can be delivered or mailed. Transportation is covered if the pharmacy has no delivery service, will not mail the prescription, or the prescription can't be filled at the medical facility. Normally, the prescription should be filled initially on the return trip from the medical appointment.
- Transportation for picking up Women, Infants, and Children (WIC) Supplemental Food Program vouchers or certification/recertification for the WIC Program is not covered.
- Transportation is not covered or provided to medical services outside of the Commonwealth of Virginia except in those areas bordering other states or the District of Columbia. In these instances, transportation may be covered and provided only to those areas bordering the city or county of residence, such as Scott County to Kingsport, Tennessee, Tazewell County to Bluefield, West Virginia, or northern Virginia to the District of Columbia.
- Transportation is not covered for any non-covered services (see Chapter I).

DRIVER REQUIREMENTS

In the fee-for-service Medicaid and Virginia Title XXI program, the broker shall assure that all drivers of vehicles transporting Medicaid and Virginia Title XXI program recipients meet the following requirements:

1. All drivers, at all times during their employment, shall be at least 18 years of age and have a current valid driver's license to operate the transportation vehicle to which they are assigned.
2. Drivers shall have no more than two chargeable accidents or moving violations in the last three years. Drivers shall not have had their driver's license suspended or revoked in the last five years.

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3. Drivers shall not have been convicted of any barrier crime as identified in Section 63.2-1719 of the Code of Virginia. The broker must require that the transportation provider secure and maintain criminal background checks on each driver.
4. The broker shall obtain approval of any driver, who has been convicted of a felony, from DMAS before employment.
5. All drivers and attendants shall be courteous, patient, and helpful to all passengers and be neat and clean in appearance.
6. No driver or attendant shall use alcohol, narcotics, illegal drugs, or prescription medications that impair ability to perform while on duty and no driver shall abuse alcohol or drugs at any time. The transportation provider shall not use drivers who are known alcohol abusers or known drugs/narcotics users.
7. All drivers and attendants shall wear and have visible a nametag that is easily readable and identifies the employee and the employer. The driver shall show the nametag to the recipient or a facility employee upon arrival for picking up the recipient.
8. Vehicles always shall be smoke free. Drivers or attendants shall not smoke while in vehicles, while assisting a recipient, or in the presence of any recipient.
9. Drivers shall not wear any type of headphones at any time while on duty, with the exception of hands-free headsets for mobile telephones. Drivers shall not use mobile telephones while the vehicle is in motion.
10. Drivers shall not eat, drink, or read while on duty and operating a transportation vehicle.
11. Drivers or attendants must exit the vehicle to open and close vehicle doors when passengers enter or exit the vehicle. Drivers or attendants must provide an appropriate level of assistance to passengers when requested or when necessitated by the passenger's mobility status or personal condition. This includes curb-to-curb, door-to-door, and hand-to-hand assistance when required.
12. For door-to-door service, drivers shall identify themselves, show their identification, and announce their presence at the entrance of the specified pick-up location (facility or residence) or to attending facility staff.
13. Drivers shall assist passengers in the process of being seated and confirm that all seat belts are fastened properly.
14. Drivers shall properly secure all wheelchairs and wheelchair passengers.
15. Drivers shall provide necessary assistance, support, and oral directions to passengers. Such assistance shall include aiding recipients with limited mobility, and the movement and storage of mobility aids and wheelchairs.

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16. Before leaving the drop-off point, drivers shall confirm that the delivered passengers are safely inside their destination.
17. Drivers and attendants shall not touch any passenger except as appropriate and necessary to assist the passenger into or out of the vehicle, into a seat, to secure the seat belt, or to provide first aid or assistance for which the driver has been trained.
18. Effective July 1, 2005, before transporting Medicaid and FAMIS recipients under this contract, all taxi and wheelchair van drivers and attendants must have received training approved by DMAS on:
 - a. assisting recipients with disabilities, such as Passenger Assistance, Safety, and Sensitivity Training (PASS)
 - b. basic first aid
 - c. defensive driving
 - d. applicable HIPAA requirements
 - e. wheelchair securement (for wheelchair van providers)
19. Drivers or attendants shall not solicit or accept money, goods, or additional business from passengers.
20. Drivers must be familiar with and knowledgeable of the area streets and highways where they are transporting.
21. Drivers must keep all recipient health care-identifying information confidential, not visible to other passengers, and must not discuss it with anyone who is not involved with the recipient's treatment or other health care services.
22. The broker shall conduct all driver credential reviews prior to assigning trips to the provider and at least annually thereafter. The broker shall maintain the records of these reviews as described in the contract with DMAS.

NON-EMERGENCY VEHICLE REQUIREMENTS

In the fee-for-service Medicaid and Title XXI program, the broker shall ensure that transportation providers maintain all vehicles adequately to meet the requirements of the contract with DMAS. Vehicles and all components shall meet or exceed state, federal, local, and manufacturer safety, mechanical, operating, and maintenance standards.

Compliance with the American with Disabilities Act

Vehicles shall comply with the Americans with Disabilities Act (ADA) regulations, including 49CFR38. The broker will supply all transportation providers with a copy of the ADA vehicle requirements. Vehicles must be in full compliance with ADA vehicle requirements in order to be approved for use under this program.

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Vehicle Requirements

In addition to the ADA vehicle requirements, all vehicles shall meet the following requirements:

1. The transportation provider shall provide and use a two-way voice communication system (mobile telephone or two-way radio) linking all vehicles used in delivering the services under the DMAS contract with the transportation provider's business headquarters. Pagers are not an acceptable substitute.
2. All vehicles shall be equipped with adequate and functioning heating and air-conditioning systems.
3. All vehicles shall have functioning, clean, and accessible seat belts for each passenger seat position. Seat belts must be stored off the floor when not in use.
4. Each vehicle shall utilize child safety seats provided by the transportation provider when transporting children under age six.
5. Each vehicle shall have at least two (2) seat belt extensions available.
6. Each vehicle shall be equipped with at least one seat belt cutter, within easy reach of the driver, for use in emergency situations. Exceptions to this requirement must be approved in advance by DMAS.
7. All vehicles shall have an accurate speedometer and odometer.
8. All vehicles shall have two exterior rear-view mirrors, one on each side of the vehicle.
9. All vehicles shall be equipped with an interior mirror for monitoring the passenger compartment.
10. The vehicle's exterior shall be clean and free of broken mirrors or windows, excessive grime, major dents, or paint damage that detract from the overall appearance of the vehicle.
11. The vehicle's interior shall be clean and free from torn upholstery, floor, or ceiling covering; free from damaged or broken seats; and free from protruding sharp edges. The interior shall also be free of dirt, oil, grease, and litter.
12. Vehicles will be free of hazardous debris or unsecured items and will be operated within the manufacturer's safe operating standards at all times.
13. Effective July 1, 2005, all vehicles shall have the transportation provider's business name and telephone number displayed on at least both sides of the vehicle's exterior. The business name and phone number must appear in permanently affixed lettering that is a minimum of three inches in height and of a color that contrasts with its surrounding background.

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14. To comply with HIPAA requirements, the word "Medicaid" may not be displayed on the vehicle or in the name of the business.
15. The vehicle license number as well as the broker's toll-free and local phone number shall be prominently displayed on the vehicle's interior. This information and the complaint procedures shall be clearly visible and available in written format in each vehicle for distribution to recipients upon request.
16. Smoking is prohibited in and around all vehicles at all times. All vehicles shall have the following signs posted in their interiors, easily visible to the passengers:

"NO SMOKING"
"ALL PASSENGERS SHALL USE SEAT BELTS"

17. All vehicles shall carry a vehicle information packet containing vehicle registration, auto insurance card, and accident procedures and forms.
18. Effective July 1, 2005, all vehicles shall be provided with a first aid kit that includes at least the following items:
 - a) Three sizes of adhesive bandages
 - b) Antiseptic cleansing wipes
 - c) Dressing pads
 - d) Oval eye pad
 - e) Conforming gauze bandage
 - f) Triangular bandage
 - g) Triple antibiotic
 - h) Insect-sting relief pads
 - i) Cold pack
 - j) Cotton-tip applicators
 - k) Latex gloves
 - l) Scissors
 - m) Sterile eyewash
19. Each vehicle shall contain a current map of the applicable region(s) with sufficient detail to locate recipients and providers.
20. The broker shall ensure that transportation providers using sedans or multi-passenger vans are in compliance with state and local ordinances for taxis and are currently licensed by the local taxi authority, if one exists, in the jurisdictions in which they operate.
21. Ambulances and wheelchair vans carrying passengers between healthcare facilities must be licensed or permitted by the Virginia Department of Health, Office of Emergency Medical Services.

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22. The following vehicle types must possess the insurance coverage described below at all times during the contract period in accordance with state and local regulations and contract requirements:
- a) Taxis and Multi-Passenger Vans: The required amount of insurance is the greater of the amounts required by city or county ordinance for taxis or \$500,000.
 - b) Interfacility Wheelchair Vans: The required amount of insurance is the greater of the amounts required by the Virginia Department of Health, Office of Emergency Medical Services, or \$500,000.
 - c) Ambulances: The required amount of insurance is the greater of the amounts required by the Virginia Department of Health, Office of Emergency Medical Services, or \$500,000.
23. Effective July 1, 2005, vehicles shall be equipped with a "spill kit" including: liquid spill absorbent, latex gloves, hazardous waste disposal bags, scrub brush, disinfectant, and deodorizer.
24. Effective July 1, 2005, wheelchair vans shall secure and carry on board one spare wheelchair in good condition with a minimum seat width of twenty inches (20").
25. The broker shall document the lifting capacity of each wheelchair van in its network in order to route trips to providers with the appropriate lift capacity for specific recipients.
26. The broker in each region shall have the capability of transporting bariatric patients. The provider must meet the requirements and guidelines established for bariatric transport by the Virginia Department of Health, Office of Emergency Medical Services.

Semi-annual Inspection Plan

The broker shall follow a semi-annual (every six months) inspection plan to check that all vehicles used by its transportation providers meet the requirements of this section and that safety and passenger comfort features are in good working order.

Inspection Sticker

Upon completion of a successful inspection, an inspection sticker approved by DMAS shall be applied to each provider vehicle. The broker shall place the inspection sticker on the outside of the passenger-side rear window in the lower right corner. The sticker shall also show the vehicle's license plate and vehicle identification numbers. The broker shall complete an initial inspection of all the transportation providers' vehicles prior to the initial date of the contract. All vehicles must display a current inspection sticker when transporting clients. Records of all inspections shall be maintained as described in the contract with DMAS.

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Non-compliance

Any vehicle or driver found out of compliance with these requirements, or any state or federal regulations, may be removed from service immediately by authorized employees of DMAS or the broker until the broker verifies that the deficiencies have been corrected. Any deficiencies and actions taken shall be documented and become a part of the vehicle's and the driver's permanent records.

Passenger Safety Requirements

The contractor, provider, and driver shall assure compliance with the following passenger safety requirements:

1. Passengers must have their seat belts buckled at all times while they are inside the vehicle. The driver shall assist passengers who are unable to fasten their own seat belts.
2. The driver shall not start the vehicle until all passenger seat belts have been buckled.
3. The number of persons in the vehicle, including the driver, shall not exceed the vehicle manufacturer's approved seating capacity.
4. Upon arrival at the destination, the vehicle should be parked or stopped so that passengers do not have to cross streets to reach the entrance of their destination.
5. If passenger behavior or other conditions impede the safe operation of the vehicle, the driver shall park the vehicle in a safe location out of traffic and notify his dispatcher to request assistance.

Stretcher Van Requirements

Stretcher-van service is an alternative mode of non-emergency transportation for pre-authorized trips. It is provided to an individual who cannot be transported in a taxi or wheelchair van yet does not need the medical services of an ambulance. Stretcher-van service does not provide emergency medical transport and does not include any medical monitoring, medical aid, medical care, or medical treatment during transport. A driver and an assistant staff the vehicle, which is specifically designed and equipped to provide non-emergency transportation of individuals on an approved stretcher.

A stretcher van is used for an individual who:

1. Needs routine transportation to or from a non-emergency medical appointment or service,
2. Is convalescent or otherwise non-ambulatory and cannot use a wheelchair, and

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3. Does not require medical monitoring, medical aid, medical care, or medical treatment during transport. Self-administered oxygen is permitted on a stretcher van as long as the oxygen tank is secured safely.

In addition to meeting the general requirements for all vehicles and drivers operating under the DMAS contract, stretcher vans shall be operated by a driver and an assistant who have completed DMAS-approved training in first aid, handling blood-borne pathogens, and in transferring, loading, and unloading passengers in stretchers.

Stretcher Van Restrictions

The following restrictions apply:

1. A stretcher-van passenger shall not be left unattended at any time.
2. The driver and assistant shall make sure that all restraining straps are fastened properly and that the stretcher, stretcher fasteners, and anchorages are properly secured.
3. The assistant shall be seated in the passenger compartment while the vehicle is in motion and shall notify the driver of any sudden change in the passenger's condition.
4. The stretcher van vehicle shall not be used:
 - a) for emergency medical transportation;
 - b) to transport a passenger who requires basic or advanced life support;
 - c) to transport a passenger who has any temporary invasive device (including a saline lock) or equipment in place, such as an intravenous administration device or an airway maintenance device;
 - d) to transport a passenger who requires close observation or medical monitoring; or
 - e) to transport more than one (1) stretcher passenger at a time.

Stretcher Van Requirements

The broker shall inspect and certify that each stretcher vehicle complies with at least the following:

1. The vehicle must be equipped with an approved stretcher used to transport individuals in the supine or Fowler's position.
2. Passengers shall be loaded headfirst into the stretcher van.
3. Stretchers must be one of two styles (excerpted from GSA Federal Specifications KKK-A-1822E, June 1, 2002):

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- a) Style 1: Elevating, wheeled cot with a minimum length of 191 cm (75 in), a minimum width of 56/22, and a maximum bed height when collapsed of 38 cm (15 in) measured from the ground to the top of a positioned 8 cm(3 in) thick mattress.
 - b) Style 2: Elevating, wheeled cot with additional front roll in wheels with a minimum length of 200cm (79 in), a minimum width of 56 cm (22 in), and a maximum bed height when collapsed of 33 cm (13 in) measured from the ground to the top of a positioned 8 cm (3 in) thick mattress.
 - c) Length and width measurements must be taken at the metal framing (excluding joint fittings). Stretchers shall have restraint straps, a polyester foam mattress at least 8 cm (3 in) thick, or an equivalent mattress covered with vinyl-coated nylon fabric or other non-porous fabric conforming to FMVSS 302 or equivalent. At least three strap-type restraining devices (at the chest, hip, and knee level) shall be provided per stretcher to prevent longitudinal or transverse dislodgement of the patient during transit. Additionally, the head of the stretcher shall be furnished with upper torso (over the shoulder) restraints that mitigate forward motion of the patient during severe braking or in a frontal impact accident. Restraining straps shall incorporate metal-to-metal quick release buckles, be no less than 51 mm (2 in) wide, and fabricated from nylon or other materials easily cleaned and disinfected.
 - d) The stretcher fasteners and anchorages shall be a crash-stable side or center mounting-cot-fastener assembly with a quick-release latch. It shall secure the Style 1- or Style 2-wheeled stretcher to the van body. The installed stretcher- fastener device for wheeled stretchers shall be tested to comply with a 2,200-pound pull test in accordance with AMD Standard 004, Litter Retention System. Additional stretcher-related hardware is permitted, provided the patient compartment exit/entry is not encumbered with the stretcher in place. The furnished devices shall have a brightly colored finish if the devices present tripping hazards in the entry/exit area when the stretcher is removed. (excerpted from GSA Federal Specifications KKK-A-1822E, June 1, 2002):
 - e) If the passenger needs a scoop, reeves, or stair-chair stretcher, the provider must supply it.
4. Stretcher vans must comply with the Americans with Disabilities Act (ADA).
 5. Stretcher vans must be maintained in good repair and safe-operating condition and shall meet the same motor vehicle safety requirements that apply to all vehicles in Virginia:
 - a) State motor vehicle safety inspection must be current.
 - b) Exterior surfaces of the vehicle, including windows, mirrors, warning devices, and lights, must be kept clean of dirt and debris.
 6. Safety belts must be provided for all passengers.
 7. A climate environmental system must supply and maintain clean air conditions and a controlled temperature inside the passenger compartment at all times.

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8. Self-administered oxygen must be secured in accordance with AMD (Ambulance Manufacturers Division of the National Truck Equipment Association) Standard 003, "Oxygen Tank Retention System Test."
9. On a stretcher vehicle, the following must appear in permanently-affixed lettering that is a minimum of three inches in height and of a color that contrasts with its surrounding background:
 - a) The provider's business name must appear on both sides of the vehicle body.
 - b) This lettering may appear as part of an organization's logo or emblem as long as the service name appears in letters of the required height.
 - c) If the transportation provider is also licensed by the Office of EMS as an Emergency Medical Service (EMS) agency, the terms "Ambulance" or "Emergency Medical Service" or any combination of similar terms may appear on the vehicle only as a part of the service's name.
 - d) Any additional lettering, logos, or emblems may appear on the vehicle at the discretion of the transportation provider. The height of any additional lettering must be less than the lettering used for the service's name.
 - e) All additional lettering, logos, or emblems may not advertise or imply the capability to provide emergency medical services (EMS).
 - f) No stretcher-van vehicle shall display the SOL (Star of Life) emblem or be equipped with emergency warning devices, audible or visual, such as flashing lights, sirens, air horns, or such devices except those which are required by state law for motor vehicles.
10. The following requirements for sanitary conditions and supplies apply to all stretcher vehicles in accordance with recommendations and standards established by the Centers for Disease Control and Prevention (CDC) and the Virginia Occupational Safety and Health Law:
 - a) The interior of the stretcher vehicle, including all storage areas, equipment, and supplies, must be kept clean and sanitary.
 - b) Waterless antiseptic hand wash must be available on each stretcher van.
 - c) Following transport and before being occupied by another passenger, all contaminated surfaces must be cleaned and disinfected using a method recommended by the Centers for Disease Control. Cleaning and disinfection supplies must be carried on each stretcher van.
 - d) All soiled supplies and used disposable items must be stored or disposed of in plastic bags, covered containers, or compartments provided for this purpose. Red or orange bags must be used for regulated waste.
 - e) Clean stretcher linen or disposable sheets and pillowcases or their equivalent shall be available in the vehicle and, when used in the transport of a patient, shall be changed after each use.
 - f) Blankets, pillows, mattresses, and rain cloths used in the vehicle shall be intact, kept clean, and in good repair.

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Appropriate Use of Stretcher Vans

In determining the appropriate use of stretcher-van service, the broker shall use the following guidelines:

1. Prior to implementation of this service, the broker shall submit an implementation plan to DMAS for approval. The plan must include:
 - a. Detailed protocols for determining the eligibility or ineligibility for transport by stretcher van.
 - b. Training for employees at the call center and the regional offices about stretcher-van rules and requirements.
 - c. Provisions for educating providers, facilities, and recipients about stretcher-van rules and requirements.
2. Eligible users for stretcher-van services must be medically stable, non-emergent individuals who need to be transported on a stretcher but do not need any medical monitoring, medical aid, medical care, or medical treatment during transport.
3. People not eligible for stretcher-van transport paid for by Medicaid include but are not limited to, individuals with the following conditions:
 - a. Passengers requiring invasive procedures (I.V. therapy, drug administration, I.V. pumps, etc.).
 - b. Passengers requiring mechanical monitoring procedures.
 - c. Passengers requiring mechanical respiratory procedures or suctioning.
 - d. Passengers requiring oxygen therapy, except for self-administered oxygen.
 - e. Passengers who have sustained an injury and have not been evaluated by a physician.
 - f. Passengers who are known to have an acute, infectious process.
4. When the medical condition of a passenger suddenly changes and requires care to be rendered, the operator of the stretcher van will immediately contact the local 911 dispatcher to request help and then notify their own headquarters to advise them of the situation. Appropriate first aid may be initiated and continued until the EMS service has intercepted the transport, or the stretcher van arrives at the hospital. Whenever a stretcher van is diverted to a hospital emergency room or requests an EMS intercept, the broker must file an Exception Report within two business days with the Virginia Department of Health, Office of Emergency Medical Service. A copy must be sent to DMAS at the same time.
5. An ambulance may be used in place of a stretcher vehicle only if it meets the equipment, supply, and staffing requirements for ambulances as specified in VA EMS Regulations (12VAC5-31, Part II, Article 3. EMS Vehicle Classification and Requirements).

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MEDICAL COVERAGE FOR NONRESIDENT ALIENS

As amended, paragraph 3 of Section 1903V of the Social Security Act (42 U.S.C. 1396b) requires Medicaid to cover emergency services for nonresident aliens when these services are provided in a hospital emergency room or inpatient hospital setting. Virginia Medicaid will cover transportation for nonresident aliens for emergency conditions only.

The medical conditions subject to this coverage may include, but are not limited to, the following:

- Cerebral vascular attacks
- Traumatic injuries
- Deliveries
- Acute coronary difficulties
- Emergency surgeries (i.e. appendectomies)
- Episodes of acute pain (etiology unknown)
- Acute infectious processes requiring intravenous antibiotics
- Fractures

To be covered, the services must meet emergency treatment criteria and are limited to:

- Emergency room care
- Physician services
- Inpatient hospitalization not to exceed the limits established for other Medicaid recipients
- Ambulance service to the emergency room or hospital
- Inpatient and outpatient pharmacy services related to the emergency treatment

Hospital outpatient follow-up visits or physician office visits related to the emergency care are not included in the covered services.

Local social services departments determine the eligibility of the nonresident alien to receive emergency Medicaid coverage based on normal eligibility criteria and the documentation from the service provider that the emergency services have been provided. Referrals to the local social services agency may come from the provider or from the nonresident alien (see Chapter III for additional information).

The documentation of the emergency treatment will be verified by the local social services agency through the patient's medical records obtained from the provider. This documentation must include all required Medicaid forms and a copy of the recipient's complete medical record. (For inpatient hospital stays, this documentation will be the medical record for the entire hospitalization up to the 21-day limit for those age 21 and older.) The local social services agency will submit this documentation to Medicaid for approval of the treatment coverage and to establish the time for which this coverage will be valid.

If the recipient is found eligible and the emergency room coverage is approved by Medicaid, each provider rendering the emergency care will be notified via the Emergency

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Medical Certification Form of the recipient's temporary eligibility number, the conditions for which treatment or services will be covered, and the dates for which the eligibility number is valid. Coverage for nonresident aliens is valid only for the conditions and time stated on this form. This form will also be used to notify providers that a nonresident alien is not eligible for emergency care.

To submit a claim for these emergency services for a nonresident alien:

1. Complete the appropriate Medicaid billing form (and other required forms) in the usual manner.
2. Attach a copy of the completed Emergency Medical Certification Form to the invoice. Other relevant documentation to justify the approval has already been submitted and reviewed and, therefore, does not need to be attached with this claim (check *Transportation Provider Manual* for a sample of the form).
3. Submit the claim using the pre-printed envelopes supplied by Medicaid or by mailing the claim directly to the appropriate post office box.

NOTE: The same procedures apply for adjusted or voided claims.

All claims for nonresident aliens will pend for certification to verify they were related to the approved emergency situation. All claims not related to the emergency treatment will be denied. The documentation for a denied claim will be kept by Medicaid for 180 days from the date of receipt to allow for the appeals process for those services which are not approved.

PAYMENT FOR SERVICES

Payment for emergency ambulance transportation services shall be in accordance with the rates established by DMAS. In these cases, payment will be individually authorized by DMAS. The broker that preauthorized the trip makes payment for non-emergency services.

Emergency Ambulance Ground Transportation Services

DMAS coverage of emergency ambulance transportation services is described earlier in this chapter. The use of this service is restricted to patients who need emergency transportation or who require transportation by stretchers. Payment rates for this mode of transportation are as follows:

1 - 5 miles	\$ 75.00
6 - 10 miles	\$150.00
Over 10 miles	\$ 2.50 each additional mile

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Ambulance Ground Transportation Services - Neonatal

The use of this service is restricted to neonatal patients who require ambulance transportation by licensed Class D-neonatal ambulances. Payment rates for this mode of transportation are as follows:

Each trip	\$120.00
Per mile	\$ 6.00

Mileage is determined from the dispatch point to the drop-off point. Waiting time is covered by DMAS when the provider remains for more than 30 minutes at the location where the recipient is picked up or taken. Waiting time is covered for all trips without regard to the number of transport miles.

Charges shall not exceed \$1,200.00 total for all reimbursement categories (round trips, base rate, mileage, and wait time).

Commercial Air Transportation Services

Payment is available for commercial air transportation only with pre-authorization from the Medicaid Central Office (the Department of Medical Assistance Services in Richmond). After obtaining approval, the Division of Health Care Services will make the necessary arrangements with the appropriate airline.

MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

[Effective Date: January 1989]

The Medicare Catastrophic Coverage Act of 1988 and other legislation require State Medicaid programs to expand the coverage of services to certain low-income Medicare beneficiaries, known as Qualified Medicare Beneficiaries (QMBs).

Qualified Medicaid Beneficiaries (QMBs) Coverage Limitations

Qualified Medicare Beneficiaries (QMBs) are only eligible for Medicaid coverage of Medicare premiums and of deductible and coinsurance up to the Medicaid payment limit less the recipient's co-payment on allowed charges for all Medicare-covered services. Their Medicaid verification will provide the message "QUALIFIED MEDICARE BENEFICIARY-QMB-MEDICAID PAYMENT LIMITED TO MEDICARE COINSURANCE AND DEDUCTIBLE." The Medicare coinsurance is limited to the Medicaid fee when combined with the Medicare payment.

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Qualified Medicare Beneficiaries (QMBs) Extended Coverage Limitations

Recipients in this group will be eligible for Medicaid coverage of Medicare premiums and of deductible and coinsurance up to the Medicaid payment limit on allowed charges for all Medicare-covered services plus coverage of all other Medicaid-covered services listed in Chapter I of this manual. Their Medicaid verification will provide the message "QUALIFIED MEDICARE BENEFICIARY-QMB EXTENDED." These recipients are responsible for co-payments for pharmacy services, health department clinic visits, and vision services.